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FILED
August 16, 2011
CLERK, U.S. BANKRUPTCY COURT
EASTERN DISTRICT OF CALIFORNIA
0003707098

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5	UNITED STATES BAI	NKRUPTCY COURT
6	EATERN DISTRICT OF CALIFOR	
7	In re:	Case No. 10-20525
8)	Chapter 11
	CARL M. JOHNSON and	Docket Control No.: UST-1
9	SAUNDRA E. JOHNSON	Date: August 30, 2011
10) Debtors	Time: 9:32 AM
	Debtors	Place: 501 I Street, 6th Floor
11	\\ \\ \\ \\ \\ \\ \\ \\ \\ \\ \\ \\ \\	Sacramento, CA 95814
12)	Department B – Courtroom 32
13)	Judge: Hon. Thomas C. Holman
14		•
15)	OPPOSITION TO TRUSTEE'S MOTION TO DISMISS
16	j	
17		
18		
19	Debtors, through their attorney C. Anthony H	ughes, oppose the Trustee's Motion to Dismiss as
20	follows:	
21		
22	1. Debtor is not clear why, but their experience with their previous attorney began to drastically	
23	change. The signs of this did not occur imme	diately; but whatever the 'situation' was causing
24	the change, it created a gradual and progressive	ve deteriorating situation within their case. As a
25	result, normal day to day activities of their case were not occurring whatsoever. Documents	
26	were not being filed, or being filed in a timely manner and any/all communication with counsel	
27	or counsel's office came to a halt. After much consideration, they felt it necessary to seek out	
28		
	In re	:: JOHNSON

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1	new counsel to assist them through the remainder of their case. Ultimately, they retained C.
2	Anthony Hughes as their new attorney.
3	2. With regard to their late filed Monthly Operating Reports, the explanation is 2-fold. Debtors
4	
5	did, in fact, submit each and every Monthly Operating Report to previous counsel in a timely
6	fashion. They sent each report to their attorney with the assumption that each report was being
7	filed with the Court on time. It has since been made clear to them that the reports were actually
8	not being filed as expected; this being due to the situation at hand within their attorney's office.
9 10	However, since retaining new counsel, their Monthly Operating Report for July was filed on
11	time. They have every expectation that all future reports will be filed on time, without issue.
12	
13	3. Since the Debtor decided to retain new counsel, the case has proceeded at top speed. The
14	following activities have occurred:
15	Culturituri an af Attaum an (CAU 001)
16	Substitution of Attorney (CAH-001)
17	Motion to Employ C. Anthony Hughes (CAH-002)
18	Motion to Value Property – 519 V Street (CAH-003)
19	Motion to Value Property – 1833 William Bird (CAH-004)
20	Motion to Value Property #2 – 1833 William Bird (CAH-005)
21	Application for Conditional Approval of Combined Plan & Disclosure Statement (CAH-007)
22	
23	Motion to Value Property #3 – 1833 William Bird (CAH-008)
24	Timely filing of the Monthly Operating Report
25	Amended Schedules & Budget (as seen in Exhibit A)
26	Clearly, this case is being expedited without delay with the change in counsel.
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1	4. With regard to the Debtor's ability to effectuate a plan, there appears to be some confusion.	
2	The net number on the Debtor's Monthly Operating Reports includes on-going deferred	
3	maintenance on their primary residence and rental properties. At the time of filing this Chapter	
4	11 bankruptcy, the properties needed repairs as required by county regulation, as well as to	
5	maintain property integrity and value. Early in their case, they understood that it was best to	
6	redeploy as much of their net back into the properties. As this case has been lengthy, they have	
7 8	been able to resolve these issues. These expenses have been explained each month in their	
9	Monthly Operating Reports and receipts can be provided upon request to substantiate this.	
10	Consequently, they had not been advised to do otherwise with their net monies, which created	
11	the apparent appearance that they were not able to afford the plan payment. This is seen in the	
12	Amended Schedules & Budget (see Exhibit A). That being the case, they actually are capable of	
13	affording and maintaining the plan payment suggested in the amended Plan & Disclosure	
14	Statement filed on August 1, 2011.	
15		
16	This Opposition is based upon the record in this case and such evidence as may be filed to	
17	supplement the Opposition, or as may be introduced at the hearing on the Opposition. Judicial	
18	notice is requested of all documents filed in this case, including those referenced herein, pursuant	
19	to Rule 201 of the Federal Rules of Evidence.	
20		
21	WHEREFORE, the Debtors pray that the Court will deny the Trustee's Motion to Dismiss.	
22 23	Executed at Sacramento, California on August 16, 2011.	
24		
25	Respectfully submitted,	
26	/s/ C. Anthony Hughes	
27	C. ANTHONY HUGHES Attorney for Debtor	

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